

### Remarks

Responsive to the Advisory Action of September 3, 2002, the applicant has cancelled claims 6, 26-37, 41-43 and 45-46 without prejudice. Claims 1, 7, 9, 18, 44 and 47 have been amended. Claims 48 and 49 have been added. In addition, detailed arguments in support of patentability of the claims are presented and examination is respectfully requested.

### Claims 44 and 47

The Examiner stated in the Advisory Action that with regard to the rejection of claims 44 and 47 under 35 U.S.C. 112, since the applicant argued that the drawings disclose the 12 o'clock and 2 o'clock positions, the drawings only provide basis for exactly the 12 o'clock and 2 o'clock positions. The Examiner stated that there is no basis in the original specification for the about 12 o'clock and 2 o'clock positions.

However, referring to Figure 3a of the specification, the angle in which the hinge 110 is attached to the two sides is clearly shown as extending between about the 12 o'clock and the 2 o'clock positions. Furthermore, it is not reasonable to recite the positions as being exactly 12 o'clock and 2 o'clock because the clock positions would certainly change depending on where the measurements are taken. As seen in the enclosed drawing, the positions can vary from between 12 o'clock and about 1:45, 2 or 3 o'clock. Thus, it is respectfully submitted, rejection of these claims should be withdrawn.

### 35 U.S.C. § 103 Rejections

Claims 1, 2, 5-10, 13, 15, 16, 18, 19, 23, 24 and 31-47 were rejected in the Final Office Action under 35 U.S.C. § 103(a) as being unpatentable over Thagard (U.S. Patent No. 5,765,348) in view of prior art Figure 2A

of the present specification. The Examiner stated that Thagard discloses the claimed invention including a deck (172) having at least three sides and at least one side wall, cutting blade 240 mounted on the deck, guard assembly 360 including an actuating member 380 and a guard 366 on the front of the mower, and a movable rubber flap 364 (column 8, line 51, 52 of the specification). It was admitted that Thagard failed to disclose providing a guard along two of at least three sides of the deck. Referring to Figure 2A of the present application, the Examiner contended that a mower deck is shown with a guard along two sides of the deck. The Examiner stated that it would have been obvious to one of ordinary skill in the art at the time of the invention to place the guard of Thagard along two of the sides of the deck as shown in Figure 2A of the present specification to provide better access to the mower blade when cutting brush.

The Examiner further stated that with regard to claims 2, 6, 7, 10 and 19, the actuating member of Thagard is a hydraulic cylinder and piston 382. The actuating member is shown mounted to the deck and the guard is spaced from the hinge. With regard to claims 8, 15, 23 and 24 the top surface of the deck and a portion of the top surface of the guard were said to be in the same plane and a portion not in the same plane (see Figure 3).

The applicant respectfully traverses this rejection with regard to claims 1, 2, 5-10, 13, 15, 16, 18, 19, 23 and 24. Claims 31-43 and 45-46 have been cancelled without prejudice. Figure 2A of the present specification shows a prior art swinging mower guard. Referring to page 8, lines 12-20 of the specification, guard 30 swings rearward above blades 32 and below a mower deck 34. In other words, the guard retracts into the housing below the mower deck 34 and above the blades 32. When the guard is in its extended or forward position,

there is nothing depending downward from it in a vertical direction to prevent the blades from throwing foreign objects. If there were, the guard of Figure 2A could not swing or pivot to a location that is below the deck and above the blades.

Put another way, the guard 30 of Fig. 2A is not pivotable to a location above the deck. A hinge on two sides of the deck would not permit the swinging guard to operate as intended since it could not then retract beneath the deck 34. Thus, Figure 2A does not teach the use of a hinge mounted to and extending at an angle in relation to two sides of a deck. Accordingly, it would not have been obvious to combine the guard of Figure 2A with Thagard's guard system. If Thagard's movable rubber flap 364 or guard 366 were secured to the guard of 30 of Figure 2A, then the guard could no longer swing beneath the mower deck 34--thus destroying its function.

Furthermore, the Thagard guard has a folding shroud 360 which is pivotably and movably attached to frame 110 by four spaced hinges 363 (Fig. 3) which are aligned and located on only one side (the rear side) of the mower. Thagard does not disclose or suggest adapting the shroud to be attached at an angle in relation to two sides of the mower. In order to be attached at an angle in relation to two sides of the mower deck, both the shroud and the deck would have to be reconfigured to enable a shroud to be mounted on hinges extending at an angle in relation to two sides of a mower deck. There is no teaching or motivation in the combination of Fig. 2A and Thagard, or in any of the remaining art, for modifying the Thagard design. Rather, the motivation can only be found in the instant application. But use of the teachings in the instant application and claims to modify a prior art reference is not permitted. Thus, it is would not have been obvious to modify the Thagard device to have

a hinge extending at an angle in relation to two sides of the mower guard.

Claim 1 has been amended to recite that the guard is pivotably attached to the deck via a hinge which is mounted to and extends at an obtuse angle in relation to two sides of the deck. Claim 1 as amended is patentable over Thagard in view of Figure 2A and is in condition for allowance. Claims 7 and 44 have been amended to depend from claim 1. Furthermore, claims 2-5 and 7-8, 38 and 44 dependent thereon are also in condition for allowance.

Claims 9 and 18 have each been amended to recite that the hinge is mounted to and disposed at an angle with respect to the two deck sides. Thagard simply does not teach or suggest a hinge mounted at an angle to two sides of the deck. Nor does Fig. 2A, or their combination. Claim 47 has been amended to depend from claim 9. Accordingly, claim 9 and claims 10-17, 39 and 47 dependent thereon, and claim 18 and claims 19-25 and 40 dependent thereon, are in condition for allowance.

Claims 1, 3, 4, 6, 9, 11-14, 16-18, 20, 21 and 24-31 were rejected in the Final Office Action under 35 U.S.C. § 103(a) as being unpatentable over Gullett (U.S. Patent No. 4,378,668) in view of Thagard. The Examiner stated that Gullett disclosed a mower head including a deck 14 having at least four sides, sidewalls, guard 24, and an actuating member 23, 27. It was admitted that Gullett disclosed a rigid wall instead of a flap. The Examiner stated that Thagard makes the downward wall of its guard a flap 364 and that it would have been obvious to replace the guard of Gullett with the flap of Thagard to provide a movable guard that protects the operator from debris.

Gullett discloses guards 20, 22, 24 which are mounted by hinges 29, 31, 33 to a deck 18. Like Thagard,

Gullett does not teach or suggest a guard and deck which are so designed that the guard is secured to a hinge which is mounted to and extends at an angle in relation to two sides of the mower. Furthermore, it would not have been obvious to combine Gullett with Thagard which has a hydraulic cylinder to move the guard assembly. Gullett simply uses cables 23 and levers 27 which pull the guards in an upward direction.

Claims 1, 9 and 18 have been amended to each recite that a hinge is mounted to extend at an angle in relation to two sides of the deck. As previously discussed, neither Thagard nor Gullett teaches or suggests a hinge connected at an angle in relation to two sides of the deck or a hinge mounted at an angle with respect to two sides. Claims 6 and 26-31 have been cancelled without prejudice. Accordingly, claim 1 and claims 2-5, 7-8, 38 and 44 dependent thereon, claim 9 and claims 10-17, 39 and 47 dependent thereon, and claim 18 and claims 19-25 and 40 dependent thereon, are in condition for allowance.

New claims 48 and 49 have been added. Claim 48 calls for a mower head including a deck with a longitudinal axis with at least three sides including a forward side and at least one side wall depending from the deck. At least one cutting blade is rotatably mounted to the deck on a rotational axis extending through the deck. The deck is disposed above and generally parallel to the blade. A guard assembly comprises an actuating member mounted on the deck and a guard attached to the actuating member. The guard is pivotally attached to the deck via a hinge which extends at an obtuse angle in relation to two adjacent ones of the sides of the deck including the forward side. The guard is located on the forward side and an adjacent side such that the longitudinal axis extends near a side edge of the guard. A flap depends from the guard.

As previously argued, none of the prior art discloses or teaches a hinge mounted at an obtuse angle in relation to adjacent sides of the deck including a forward side. Neither Thagard, nor Figure 2A of the specification, either separately or in combination teach or suggest a hinge mounted at an angle to two sides of a deck.

Accordingly, claim 48 is in condition for allowance.

Claim 49 calls for a mower head with a deck having five sides, four of which are perpendicular in relation to each other and a fifth side which is oriented at an obtuse angle in relation to its adjacent sides. At least one cutting blade is rotatably mounted to the deck on a rotational axis extending through the deck. The deck is disposed above and generally parallel to the blade. The guard is movably attached to the deck fifth side via hinge which extends parallel to the deck fifth side.


None of the prior art discussed above discloses a deck with five sides in which a fifth side is oriented at an obtuse angle in relation to the adjacent sides. Nor does the prior art disclose a guard movably attached to a deck fifth via a hinge which extends parallel to the deck fifth side. Accordingly, claim 49 is in condition for allowance.

CONCLUSION

All formal and informal matters have been addressed, it is respectfully submitted that this application is now in condition for allowance. It is believed that the proposed claim changes place the application in condition for allowance or in better condition for appeal. Accordingly, entry of the amendment is respectfully requested. Early notice to that effect is earnestly solicited.

Respectfully submitted,

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MARKED-UP VERSION OF THE AMENDED CLAIMS

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IN THE CLAIMS:

Please cancel claims 6, 26-37, 41-43, and 45-46.

Please amend claims 1, 7, 9, 18, 44 and 47 as follows:

1. (Twice Amended) A mower head comprising:  
a deck having at least three sides and at least one side wall depending from said deck;

5 at least one cutting blade rotatably mounted to said deck on an axis extending through said deck, said deck being disposed above and generally parallel to said blade; and

a guard assembly comprising:

10 an actuating member mounted on said deck,  
a guard attached to said actuating member and pivotally attached to said deck via a hinge which is mounted to two of said at least three sides and extends at an obtuse angle in relation to [along] two of said at least three sides of said deck, and

15 a flap depending from said guard and movable in relation to said guard, said flap being oriented in a plane spaced from a plane of said guard.

7. (Twice Amended) The mower head of claim [6] 1 wherein said actuating member is mounted on said deck at a location spaced from said hinge.

9. (Twice Amended) A mower head comprising:  
a deck having at least three sides;  
at least one cutting blade rotatably mounted to said deck on an axis extending through said deck, said deck being disposed above and generally parallel to said blade; and

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a guard assembly comprising:

an actuating member mounted on said deck,  
a hinge extending between and mounted to  
10 two of said at least three sides of said deck at an angle  
with respect to said two of said at least three sides,  
a guard attached to said actuating member  
and pivotally attached to said deck via said hinge, and  
a flap which depends from said guard and is  
15 movable in relation to said guard, said flap being  
oriented in a plane spaced from a plane of said guard.

18. (Thrice Amended) A mower head comprising:

a deck comprising:

at least four sides, and  
three side walls, one depending from each  
5 of three of said at least four sides, wherein two of said  
three side walls are rigid;

at least one cutting blade rotatably mounted to  
said deck on an axis extending through said deck, said  
deck being disposed above and generally parallel to said  
10 blade; and

a guard assembly comprising:

an actuating member mounted on said deck,  
a hinge mounted to and extending at an  
angle in relation to [between] two adjacent ones of  
15 said at least four sides of said deck,

a guard attached to said actuating member  
and pivotally attached to said deck via said hinge, and  
a flap which depends from said guard and is  
movable in relation to said guard, said flap being  
20 oriented in a plane spaced apart from a plane of said  
guard.

44. (Amended) The mower guard of claim [41] 1,

wherein said angle is formed between about 12 o'clock and 2 o'clock positions in relation to the front side of said deck.

47. (Amended) The mower guard of claim [45] 9, wherein said angle is formed between about 12 o'clock and 2 o'clock positions in relation to the front side of said deck.

Please add new claims 48 and 49:

48. (New) A mower head comprising:

a deck having a longitudinal axis, at least three sides including a forward side and at least one side wall depending from said deck;

5 at least one cutting blade rotatably mounted to said deck on a rotational axis extending through said deck, said deck being disposed above and generally parallel to said blade; and

a guard assembly comprising:

10 an actuating member mounted on said deck,  
a guard attached to said actuating member and pivotally attached to said deck via a hinge which extends at an obtuse angle in relation to two adjacent ones of said at least three sides of said deck, including said  
15 forward side, wherein said guard is located on said forward side and an adjacent side such that said longitudinal axis extends near a side edge of said guard, and

a flap depending from said guard.

49. (New) A mower head comprising:

a deck having five sides, four of which are perpendicular in relation to each other and a fifth side which is oriented at an obtuse angle in relation to its

adjacent sides;

at least one cutting blade rotatably mounted to said deck on a rotational axis extending through said deck, said deck being disposed above and generally parallel to said blade; and

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a guard movably attached to said deck fifth side via a hinge which extends parallel to the deck fifth side.